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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**JAYE RICHARD EDVALL
2045 West El Camino Avenue Apt 603
Sacramento, CA 95833**

Registered Nurse License No. 526788

RESPONDENT

Case No. 2013-62

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 18, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2013-62 against Jaye Richard Edvall (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about September 24, 1996, the Board of Registered Nursing (Board) issued Registered Nurse License No. 526788 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on June 30, 2012 and has not been renewed.

3. On or about July 18, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-62, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

2045 West El Camino Avenue Apt 603

Sacramento, CA 95833.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about July 31, 2012, the Certified Mail documents and the First Class Mail
5 documents were returned, both marked by the U.S. Postal Service, "Not Deliverable As
6 Addressed, Unable to Forward." On or about September 6, 2012, the documents were reserved to:
7 2045 West El Camino Avenue Apt 6
8 Sacramento, CA 95833.

9 On or about September 10, 2012 and October 3, 2012, both mails were returned by U.S.
10 Postal Service marked "Insufficient Address." The address on the documents was the same as the
11 address on file with the Board. Respondent failed to maintain an updated address with the Board
12 and the Board has made attempts to serve the Respondent at the address on file. Respondent has
13 not made himself available for service and therefore, has not availed himself of his right to file a
14 notice of defense and appear at hearing.

15 6. Business and Professions Code section 2764 states:

16 The lapsing or suspension of a license by operation of law or by order or decision of
17 the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive
18 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
19 against such license, or to render a decision suspending or revoking such license.

20 7. Government Code section 11506 states, in pertinent part:

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
22 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
23 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
24 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

25 8. Respondent failed to file a Notice of Defense within 15 days after service of
26 the Accusation upon him, and therefore waived his right to a hearing on the merits of Accusation
27 No. 2013-62.

28 9. California Government Code section 11520 states, in pertinent part:

1 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
2 agency may take action based upon the respondent's express admissions or upon other evidence
3 and affidavits may be used as evidence without any notice to respondent.

4 10. Pursuant to its authority under Government Code section 11520, the Board after
5 having reviewed the proof of service dated July 18, 2012 and September 6, 2012, signed by Kami
6 Pratab, and the returned envelopes find Respondent is in default. The Board will take action
7 without further hearing and, based on Accusation No. 2013-62 and the documents contained in
8 Default Decision Investigatory Evidence Packet in this matter which includes:

9 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2013-62,
10 Statement to Respondent, Notice of Defense (two blank copies), Request
11 for Discovery and Discovery Statutes (Government Code sections
12 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
13 receipt or copy of returned mail envelopes;

14 Exhibit 2: License History Certification for Jaye Richard Edvall, Registered Nurse
15 License No. 526788;

16 Exhibit 3: Court and Arrest Records;

17 Exhibit 4: Affidavits of Don Tsue and Kami Pratab;

18 Exhibit 5: Certification of costs by Board for investigation and enforcement in Case
19 No. 2013-62;

20 Exhibit 6: Declaration of costs by Office of the Attorney General for prosecution of
21 Case No. 2013-62.

22 The Board finds that the charges and allegations in Accusation No. 2013-62 are separately and
23 severally true and correct by clear and convincing evidence.

24 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
25 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
26 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
27 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
28 \$9,799.00 as of November 19, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Jaye Richard Edvall has subjected his following license(s) to discipline:

a. Registered Nurse License No. 526788

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's license(s) based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

a. Violation of Business and Professions Code section 2761(a) - Unprofessional Conduct.

b. Violation of Business and Professions Code section 2761(f) - Conviction substantially related to the qualifications, functions and duties of a registered nurse.

c. Violation of Business and Professions Code section 2762(a) - Obtaining or possessing controlled substances without a prescription.

d. Violation of Business and Professions Code section 2762(b) - Use of controlled substance or alcohol to an extent or in a manner dangerous or injurious to oneself and others.

e. Violation of Business and Professions Code section 2762(c) - Criminal conviction involving alcoholic beverages or controlled substances.

f. Violation of Business and Professions Code section 2762(e) - Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to a controlled substance.

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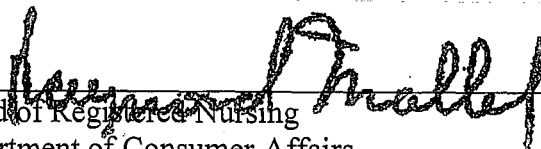
ORDER

IT IS SO ORDERED that Registered Nurse License No. 526788, heretofore issued to Respondent Jaye Richard Edvall, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MARCH 29, 2013.

It is so ORDERED FEBRUARY 28, 2013.


Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2013-62

Exhibit A

Accusation No. 2013-62

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-62**

12 **JAYE RICHARD EDVALL**
2045 West El Camino Avenue, #603
13 Sacramento, CA 95833

A C C U S A T I O N

14
15 **Registered Nurse License No. 526788**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 2. On or about September 24, 1996, the Board issued Registered Nurse License Number
24 526788 to Jaye Richard Edvall ("Respondent"). Respondent's registered nurse license was in full
25 force and effect at all times relevant to the charges brought herein and expired on June 30, 2012.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct . . .

11

12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record of
14 the conviction shall be conclusive evidence thereof . . .

15 6. Code section 2762 states, in pertinent part:

16 In addition to other acts constituting unprofessional conduct within the
17 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
18 person licensed under this chapter to do any of the following:

19 (a) Obtain or possess in violation of law, or prescribe, or except as
20 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
21 himself or herself, or furnish or administer to another, any controlled substance as
22 defined in Division 10 (commencing with Section 11000) of the Health and Safety
23 Code or any dangerous drug or dangerous device as defined in Section 4022.

24 (b) Use any controlled substance as defined in Division 10 (commencing
25 with Section 11000) of the Health and Safety Code, or any dangerous drug or
26 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
27 in a manner dangerous or injurious to himself or herself, any other person, or the
28 public or to the extent that such use impairs his or her ability to conduct with safety to
the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription,
consumption, or self administration of any of the substances described in subdivisions
(a) and (b) of this section, or the possession of, or falsification of a record pertaining
to, the substances described in subdivision (a) of this section, in which event the
record of the conviction is conclusive evidence thereof.

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(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

7. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

8. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . ."

COST RECOVERY

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCE

10. "Fentanyl" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(8).

FIRST CAUSE FOR DISCIPLINE

(Diversion of Controlled Substances)

11. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (a), in that on or about June 28, 2010, while employed as a registered nurse at Mercy General Hospital, Sacramento, California, Respondent obtained the controlled substance Fentanyl by fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section

1 11173, subdivision (a), as follows: On June 28, 2010, at 2109 hours, Respondent removed one
2 0.05 mg/1ml 2ml ampule of Fentanyl from the hospital's SureMed system (computerized
3 medication dispensing system) for patient 3 when, in fact, there was no physician's order
4 authorizing the medication for the patient at that time. Further, Respondent failed to chart the
5 administration of the Fentanyl in the patient's EMAR (electronic medication administration
6 record) or document the wastage of the Fentanyl in the SureMed system.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(False Entries in Hospital/Patient Records)**

9 12. Respondent is subject to disciplinary action pursuant to Code section 2761,
10 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
11 subdivision (e), in that on or about June 28, 2010, while employed as a registered nurse at Mercy
12 General Hospital, Sacramento, California, Respondent falsified, or made grossly incorrect,
13 grossly inconsistent, or unintelligible entries in hospital, patient, or other records pertaining to the
14 controlled substance Fentanyl, as set forth in paragraph 11 above.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Criminal Conviction)**

17 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
18 subdivision (f), in that on or about September 9, 2004, in the criminal proceeding titled *State of*
19 *Minnesota v. Jaye Richard Edvall* (Dist. Ct. 7th Jud. Dist., Becker County, 2004, Case No. T2-04-
20 2379), Respondent pled guilty to violating Minn. Statutes §169A.20, subdivision 1(1), and
21 §169A.27 (fourth degree driving while impaired), a misdemeanor, a crime substantially related to
22 the qualifications, functions, and duties of a registered nurse. The circumstances of the crime are
23 as follows: On or about August 8, 2004, an officer with the Minnesota State Patrol was advised
24 to respond to another patrolman, who had initiated a traffic stop on Respondent's vehicle. Upon
25 arrival, the officer made contact with Respondent and smelled a strong odor of an alcoholic
26 beverage on his person. The officer had Respondent perform field sobriety tests, then arrested
27 him for driving under the influence. After placing Respondent in his patrol car, the officer
28 walked around Respondent's vehicle and noted heavy damage to the headlight and bumper

1 assembly. When asked about the damage, Respondent stated he ran into a metal post. The
2 officer then discovered that Respondent had a female passenger in the vehicle. Respondent was
3 transported to St. Mary's Hospital, where he submitted a blood sample. The blood test results
4 showed that Respondent had an ethyl alcohol concentration of 0.21 percent.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Use of Alcoholic Beverages to an Extent or in a Manner**

7 **Dangerous or Injurious to Oneself and the Public)**

8 14. Respondent is subject to disciplinary action pursuant to Code section 2761,
9 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
10 subdivision (b), in that on or about August 8, 2004, Respondent used alcoholic beverages to an
11 extent or in a manner dangerous or injurious to himself and the public, as set forth in paragraph
12 13 above.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Conviction Related to the Consumption of Alcoholic Beverages)**

15 15. Respondent is subject to disciplinary action pursuant to Code section 2761,
16 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
17 subdivision (c), in that on or about September 9, 2004, Respondent was convicted of a criminal
18 offense involving the consumption of alcoholic beverages, as set forth in paragraph 13 above.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 526788, issued to Jaye
23 Richard Edvall;

24 2. Ordering Jaye Richard Edvall to pay the Board of Registered Nursing the reasonable
25 costs of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED:

July 18, 2012

for Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2012104803